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EXAMINER	
SIPOS, JOHN	
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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 10/066,921
Filing Date: February 04, 2002
Appellant(s): SCHNEIDER ET AL.

Ronald E. Brown
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed December 6, 2004.

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) Status of Claims

The statement of the status of the claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Invention

The summary of invention contained in the brief is correct.

(6) Grounds of Rejection

Appellant's brief includes a correct statement of the grounds of rejection.

Claims 1-30 are rejected under **35 U.S.C. ' 103(a)** as being unpatentable over the patent to patent to Malin (6,185,907-cited by applicant) in view of Ausnit (4,876,842) or Belmont (6,427,421). The patent to Malin shows a method and apparatus for forming packages which comprises a means for feeding a film (14/16) in a horizontal plane, means for placing a product on the film (column 3, line 1 et seq.), means for feeding a

continuous zipper to the longitudinal edge of the film (38/40), means for folding the film along its longitudinal center (36), means for sealing the zipper to the film (84/86), means for sealing the longitudinal edges of the folded film (68/70) and means for sealing and cutting the packages crosswise (94/96). The Malin operation differs from the claimed one in the position of the zipper on the film.

The patent to Ausnit shows a package forming apparatus which comprises a means for providing a continuous film 14 in a horizontal plane, means for placing a product on the film (15), means for longitudinally folding the film (38), means for feeding a continuous zipper adjacent the longitudinal fold of the film (24), means for sealing the zipper to the film (42), means for sealing the longitudinal edges of the folded film (40) and means for sealing and cutting the packages crosswise (12).

The patent to Belmont shows a package forming apparatus which comprises a means for providing a continuous film 14 in a vertical plane, means for longitudinally folding the film along its center (column 4, line 26), means for longitudinal feeding a continuous zipper to the film (14). The patent teaches alternative embodiments wherein the continuous zipper is fed either to the longitudinal edge of the film (Figures 3a and 3b) or adjacent the central fold of the film (Figure 3c).

In both the Ausnit and Belmont operations the feeding of the zipper inside the longitudinal fold provides protection from contamination to the zipper in the finished package. It would have been obvious to one of ordinary skilled in the art to position the zipper of Malin adjacent the fold of the film as taught by either Ausnit or Belmont to provide protection to the zipper.

The use of sliders and the related specifics of the bag, as recited in claims 3-10, 13-20 and 23-30 are well known in the zipper/slider/bag forming art and would have been obvious to use in the process of the Malin and Ausnit /Belmont combination for their inherent benefits.

(7) Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Prior Art of Record

6,185,907	***Malin***	***2/13/2001***
4,876,842	***Ausnit***	***10/31/1989***
6,427,421	***Belmont***	***8/6/2002***

(9) Arguments

Appelants argue that the reference to Malin does not show the means for feeding the zippers between the center of the film where the fold will take place and the products. This feature is fully shown by the combination of references. The Malin operation places the zipper at the edges of the film rather near the center of the film. Each of the secondary references clearly teach the concept of placing the zipper near a fold line so that the zipper is not exposed and the fold protects the zipper from outside contaminants.

The patent to Ausnit shows a package forming apparatus, which comprises a means for providing a continuous film (14) in a horizontal plane, means for placing a product on the film (15), means for longitudinally folding the film (38) and means for

feeding a continuous zipper adjacent the longitudinal fold of the film (24), means for sealing the zipper to the film (42), means for sealing the longitudinal edges of the folded film (40) and means for sealing and cutting the packages crosswise (12). The means for feeding the zipper places the zipper between the products and the line where the fold is going to take place (see Figures 1 and 2).

The patent to Belmont shows a package forming apparatus, which comprises a means for providing a continuous film in a vertical plane, means for longitudinally folding the film along its center (column 4, line 26), means for longitudinal feeding a continuous zipper to the film (14). The patent teaches alternative embodiments wherein the continuous zipper is fed either to the longitudinal edges of the film (Figures 3a and 3b) or adjacent the central fold of the film (Figure 3c).

In view of these references it would have been obvious to one skilled in the art to feed the zipper of Malin adjacent the fold line so that the fold in the finished package will protect the zipper.

Appellants' arguments with respect to the secondary references to Ausnit and Belmont that the sequence of operation is different from the claimed sequence are not persuasive since these references were used to show the position of the zipper near the fold in the film so that the fold would protectively cover the zipper. These references were not applied against the claims to show other claimed limitations, e.g. location of the longitudinal seal and the sequence of the various steps/mechanism, since these steps and mechanisms are fully shown by the basic reference to Malin.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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December 9, 2004

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